



03-05-04

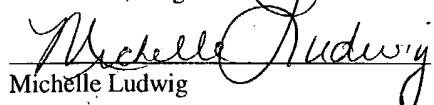
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE UNDER 37 C.F.R. §1.10

RCE/1600  
AS

I hereby certify that the documents enclosed herein are being deposited with the United States Postal Service on this 7<sup>th</sup> day of March, 2004 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV114072889US addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

  
Michelle Ludwig

In re application of: Behr et al.

)

) Examiner: David H. Kruse

Serial No.: 09/872,051

)

) Group Art Unit: 1638

Filed: June 1, 2001

)

) Conf. No. 3101

For: A DNA Construct Having Two Expression Cassettes )

Each Encoding A Glyphosate Tolerant EPSPS )

Enzyme A Method Of Making A Glyphosate )

Tolerant Plant And A Glyphosate Tolerant Plant )

Produced By The Method )

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

RECEIVED  
MAR 11 2004  
TECH CENTER 1600  
2002-2003

TRANSMITTAL LETTER

Transmitted herewith are the following documents in the above-identified application.

Request for Continued Examination (RCE) Transmittal  
 Fee Transmittal for Year 2004  
 Preliminary Amendment  
 Transmittal of Information Disclosure Statement After Mailing Date of Final Action or Notice of Allowance but Before Payment of Issue Fee (37 C.F.R. §1.97(d))  
 PTO Form 1449  
 One (1) Reference  
 If an extension or an additional extension of time is required, but is not enclosed, please consider this a conditional petition therefor and charge Deposit Account 13-4125 accordingly.  
 Please debit \$950.00 from Deposit Account 13-4125 for the fee required with this filing.  
 Please charge any deficiencies or credit any overpayment to Deposit Account 13-4125.  
A duplicate copy of this sheet is attached.

Respectfully submitted,



Thomas P. McBride  
Reg. No. 32,706  
800 North Lindbergh Boulevard  
St. Louis, Missouri 63167  
(314) 694-5802  
(314) 694-5311 (fax)



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

# Request for Continued Examination (RCE) Transmittal

Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	09/872,051
Filing Date	June 1, 2001
First Named Inventor	Carl Frederick Behr
Art Unit	1638
Examiner Name	David H. Kruse
Attorney Docket Number	38-21(52258)B

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

**1. Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a.  Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i.  Consider the arguments in the Appeal Brief or Rely Brief previously filed on \_\_\_\_\_

ii.  Other \_\_\_\_\_

b.  Enclosed

i.  Amendment/Reply      iii.  Information Disclosure Statement (IDS)

ii.  Affidavit(s)/ Declaration(s)      iv.  Other \_\_\_\_\_

**2. Miscellaneous**

a.  Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b.  Other \_\_\_\_\_

**3. Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

a.  The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 13-4125

i.  RCE fee required under 37 CFR 1.17(e)  
ii.  Extension of time fee (37 CFR 1.136 and 1.17)  
iii.  Other IDS \_\_\_\_\_

b.  Check in the amount of \$ \_\_\_\_\_ enclosed

c.  Payment by credit card (Form PTO-2038 enclosed)

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print/Type)	Thomas P. McBride	Registration No. (Attorney/Agent)	32,706
Signature		Date	4/10/04

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service Express Mail #EV114072889US addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	Michelle Ludwig
Signature	
Date	March 4, 2004

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** (\$ 950.00)
**Complete if Known**

Application Number	09/872,051
Filing Date	June 1, 2001
First Named Inventor	Carl Frederick Behr
Examiner Name	David H. Kruse
Art Unit	1638
Attorney Docket No.	38-21(52258)B

**METHOD OF PAYMENT (check all that apply)**
 Check  Credit card  Money Order  Other  None

 Deposit Account:

Deposit Account Number 13-4125  
Deposit Account Name Monsanto Company

The Director is authorized to: (check all that apply)

 Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) or any underpayment of fee(s)  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.
**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
<b>SUBTOTAL (1)</b>		(\$ 0-	

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims	Extra Claims	Fee from below	Fee Paid
	-20**	= <input type="text"/> X <input type="text"/> = <input type="text"/>	
Independent Claims	- 3**	= <input type="text"/> X <input type="text"/> = <input type="text"/>	
Multiple Dependent		= <input type="text"/>	

Large Entity	Small Entity	Fee Description
Fee Code (\$)	Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent
<b>SUBTOTAL (2)</b>		(\$ 0-

\*\*or number previously paid, if greater; For Reissues, see above

**3. ADDITIONAL FEES**

Large Entity	Small Entity
--------------	--------------

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	180.00
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	770.00
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3)** (\$ 950.00)**SUBMITTED BY**

(Complete if applicable)

Name (Print/Type)	Thomas P. McBride	Registration No. (Attorney/Agent)	32,706	Telephone	314-694-5802
Signature	Thomas P. McBride			Date	4 Mar 04

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

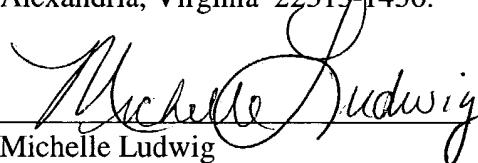
PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE UNDER 37 C.F.R. §1.10

I hereby certify that the documents enclosed herein are being deposited with the United States Postal Service on this 4<sup>th</sup> day of March, 2004 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV114072889US addressed to: MAIL STOP RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

  
Michelle Ludwig

RECEIVED  
MAR 11 2004  
TECH CENTER 1600/2000

In re application of: Behr et al.

)  
) Examiner: David H. Kruse  
Serial No.: 09/872,051  
)  
) Group Art Unit: 1638  
Filed: June 1, 2001  
)  
) Conf. No.: 3101

For: A DNA Construct Having Two Expression )  
Cassettes Each Encoding A Glyphosate )  
Tolerant EPSPS Enzyme A Method of )  
Making A Glyphosate Tolerant Plant And A )  
Glyphosate Tolerant Plant Produced by The )  
Method )

MAIL STOP RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

PRELIMINARY AMENDMENT

It is respectfully requested that the following amendment be entered as indicated below and that the application be examined on the merits. It is believed that no new matter is introduced as a result of these amendments.